



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Gerard Seeley, Jr.
Regional Director

AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO PURGO, INC. Registration No. 51048

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §10.1-1309 and §10.1-1316, between the Air Pollution Control Board and Purgo, Inc., for the purpose of resolving certain alleged violations of environmental law and/or regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Air Pollution Control Law" means Va. Code § 10.1-1300 *et seq.*
3. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality.

6. "Order" means this document, also known as a Consent Order.
7. "Purgo" means Purgo, Inc., certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
8. "Facility" means the Purgo facility located at 17324 Washington Highway, Doswell, Virginia.
9. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
10. "Permit" means the New Source Review permit (Registration Number 51048), which became effective on October 31, 2001.
11. "Regulations" means the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution 9 VAC 5-10-10 *et seq.*

SECTION C: Findings of Fact and Conclusions of Law

1. Purgo operates a soil remediation facility at 17324 Washington Highway, Doswell, Virginia ("Facility"). DEQ issued Purgo a New Source Review permit (Reg # 51048) on October 31, 2001 ("Permit").
2. On January 19, 2007, PRO staff conducted a compliance inspection of the Purgo Facility. The inspector noted a number of alleged violations of the Permit and the Regulations. A list of repairs was submitted by Purgo on January 23, 2007. On February 28, 2007, DEQ staff conducted a follow up inspection and noted that although some progress had been made, Purgo was operating the Facility out of compliance with its Permit.
3. On April 3, 2007, a Notice of Violation ("NOV") Number 07-04-PRO-402 was issued to Purgo for the following permit condition and regulatory violations:
 - Failure to control particulate emissions, as required by 9 VAC 5-50-90, Permit Condition No. 3 and 9 VAC 5-80-1210 H. During the January 19, 2007 inspection, Staff observed particulate matter coming out of the seals that attach the rotary kiln to the soil inlet and exit ports. Particulate emissions emitted from the seals were not being collected and controlled by the baghouse or scrubber.
 - Failure to maintain afterburner temperatures above the Permit minimum limit of 1400°F, as required by Permit Condition No. 4 and 9 VAC 5-80-1210 H. During the inspection, temperatures ranged from 1011°F to 1120°F. Records show that the temperatures were below 1400°F for the entire week of January

- 19th 2007. A sampling of records shows that the majority of temperature readings for the calendar year 2006 were below 1400°F.
- Failure to provide certification analyses for No. 5 fuel oil, as required by Permit Condition No. 6 and 9 VAC 5-80-1210 H.
 - Failure to meet the 180°F. minimum temperature requirement for the kiln air discharge, as required by Permit Condition No. 13 and 9 VAC 5-80-1210 H. A sampling of records during the inspection indicated that the minimum temperature requirement was not met for: 7 hours on 4/03/06, 7 hours on 5/05/06, 1 hour on 1/15/07 and 1 hour on 1/16/07.
 - Failure to meet the 10,000 ppm permit limit for VOC content in soil, as required by Permit Condition No. 17 and 9 VAC 5-80-1210 H. Purgo measures VOC content as total petroleum hydrocarbon. The inspector observed that in March and August of 2006 the readings were reported as 10,540 ppm and 10,269 ppm respectively.
 - Failure to report any malfunctions or monitoring failures during this review period, as required by Permit Condition No. 25 and 9 VAC 5-80-1210 H.
4. On April 26, 2007, a meeting was held between DEQ staff and the Facility to discuss the issues cited in the above NOV. Purgo stated that a new afterburner would be installed in several weeks. The Department requested that Purgo complete the installation of the afterburner, submit a permit amendment request to address the kiln air discharge, and modify the operation and maintenance manual
5. On May 22, 2007, Purgo completed the afterburner installation and since then have been in compliance with the minimum afterburner air discharge temperature.
6. Purgo submitted a permit amendment request to remove the requirement kiln air discharge minimum temperature. On August 6, 2007, the Department approved the request and re-issued the Permit.

SECTION D: Agreement and Order

1. Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1316(C), orders Purgo, and Purgo agrees to perform the actions described in Appendix A of this Order. In addition, the Board orders Purgo, and Purgo voluntarily agrees, to pay a civil charge of \$17,500 within 30 days of the effective date of the Order in settlement of the violation cited in this Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Payment shall include the Federal Tax Identification Number for the Facility.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Purgo, for good cause shown by Purgo, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves the alleged violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Purgo by DEQ on April 3, 2007. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Purgo admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Purgo consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Purgo declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Purgo to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Purgo shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Purgo shall show

that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Purgo shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Purgo.
11. This Order shall continue in effect until:
 - a. Purgo petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - b. The Director or Board terminates the Order in his or its sole discretion upon 30 days notice to Purgo.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Purgo from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Purgo voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of October 22, 2007.

Gerard Seeley, Jr.
Gerard Seeley, Jr., Regional Director
Department of Environmental Quality

Purgo voluntarily agrees to the issuance of this Order.

By: Robert Carroll

Date: 10/18/07

Commonwealth of Virginia

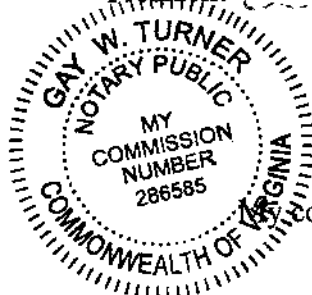
City/County of LANE

The foregoing document was signed and acknowledged before me this 18th day of

October, 2007, by Robert L. Carroll, who is

CEO of Purgo, Inc., on behalf of the Corporation.

President



[Signature]
Notary Public

My commission expires: 6/1/08

Appendix A

Purgo shall:

1. On or before November 1, 2007, submit to the Department for review and approval, a formal operation and maintenance (O&M) plan to include a reporting section and a training program for employees.